

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**SPINIELLO COMPANIES,**

**Plaintiff,**

**V.**

**BRICO INDUSTRIES, INC.,**

**Defendant.**

**CIVIL ACTION NO. 04-11933-NMG**

**PLAINTIFFS' RULE 26 AUTOMATIC DISCOVERY DISCLOSURES**

Pursuant to F.R.C.P. 26(a)(1) and Local Rules 26.1 and 26.2, Plaintiff Spiniello Companies (“Spiniello”) hereby provides the following automatic required discovery disclosure. Plaintiffs acknowledge that this disclosure obligation continues throughout the case and will supplement this statement as additional documents are located and additional information is received by its counsel.

## **I. Individuals With Discoverable Information**

The following individuals are likely to have discoverable information relevant to facts alleged with particularity in Plaintiffs' Complaint. As our investigation into this matter is ongoing, Plaintiffs reserve the right to supplement this list:

1. Paul Hayward  
Jason Consultants International, Inc.  
2000 Massachusetts Avenue  
NW, Washington, DC 20036  
202-223-9610

2. John Walsh  
4 Hickory Road  
South Borough, MA 01772  
508-208-5407
3. Jose Collazo  
Spiniello Companies  
12 East Daniel Road  
Fairfield, NJ 07004  
973-808-8383
4. Robert DePonte  
Metra Industries  
50 Muller Place  
Little Falls, NJ 07424  
973-812-0333
5. Robert Block  
D'Annunzio & Sons Inc.  
136 Central Avenue  
Clark, NJ 07066  
732-574-1300
6. James Smiley  
Spiniello Companies  
12 East Daniel Road  
Fairfield, NJ 07004  
973-808-8383
7. John Purciello  
Cruz Construction  
952 Holmdel Road  
Holmdel, NJ 07733  
732-946-8400
8. Gary Stivaly  
Metra Industries  
50 Muller Place  
Little Falls, NJ 07424  
973-812-0333
9. Jim Pescatore  
CDM  
One Cambridge Place  
50 Hampshire Street  
Cambridge, MA 02139  
617-452-6000

10. Frank DePaola  
MWRA  
Charlestown Navy Yard  
100 First Avenue  
Boston, MA 02129  
617-788-4825
11. Chris Houde  
CDM  
One Cambridge Place  
50 Hampshire Street  
Cambridge, MA 02139  
617-452-6000
12. Robert Card  
Brico Industries, Inc.  
P.O. Box 48776  
Atlanta, GA 30362  
770-840-0662
13. James Glendye  
CDM  
One Cambridge Place  
50 Hampshire Street  
Cambridge, MA 02139  
617-452-6000
14. Paul Angert  
Brico Industries, Inc.  
P.O. Box 48776  
Atlanta, GA 30362  
770-840-0662
15. Todd Galletti  
Astaldi Construction  
8220 State Road 84 – Suite 300  
Davie, FL 33324  
954-423-8766
16. Oliver Fernandez  
ODF  
P.O. Box 380 Uphams Corner  
Dorchester, MA 02125  
617-442-5069

17. Andy Thoenke  
Brico Industries, Inc.  
P.O. Box 48776  
Atlanta, GA 30362  
770-840-0662

**II. Description by Category and Location of All Relevant Documents**

A. Documents which refer to, reflect, constitute or discuss Spiniello's communications with the Massachusetts Water Resources Authority ("MWRA"), Brico Industries, Inc. ("Brico"), ODF Contracting Company, Inc. and M&M Welding. The originals of such documents are maintained at the offices of Spiniello.

B. Documents which refer to, reflect, constitute or discuss the Contract, Specifications and any Change Orders for construction of the Project between the MWRA and Spiniello. The originals of such documents are maintained at the offices of Spiniello.

D. Documents which refer to, reflect, constitute or discuss scheduling of the work on the Project, meeting minutes and daily reports. The originals of such documents are maintained at the offices of Spiniello.

E. Documents which refer to, reflect, constitute or discuss the defects in the Brico seals. The originals of such documents are maintained at the offices of Spiniello.

F. Documents which refer to, reflect, constitute or discuss all delays, incidental and consequential damages incurred by Spiniello as a result of the defects in the Brico seals. The originals of such documents are maintained at the offices of Spiniello.

G. Documents which refer to, reflect, constitute or discuss all inspections, examinations, evaluations, testing, removal and reinstallation of the Brico seals by Spiniello or its consultant. The originals of such documents are maintained at the offices of Spiniello.

H. Documents which refer to, reflect, constitute or discuss the purchase, provision, delivery, payment and installation of the Brico Industries, Inc. ("Brico") seals. The originals of such documents are maintained at the offices of Spiniello.

### **III. Computation of Damages**

Spiniello estimate that its has sustained damages attributable to Brico in the approximate amount of \$2,421,009, exclusive of attorneys fees and interest, based on the following calculation: Direct subcontractor costs \$91,266; Costs for additional support of subcontractor \$16,477; Home office and field overhead \$514,920; Lost productivity \$1,445,289; Additional transportation and storage costs \$4,836; Consultant costs \$4,166; Snow removal costs due to schedule delay \$4,642; Costs of funding the claim \$229,371; Insurance increases \$24,492; Costs of funding retention \$11,034; Costs of retraining coupling \$30,797; Bonding costs \$15,119; Costs to prepare claim \$28,598.

**SPINIELLO COMPANIES,**

By its attorneys,

/s/ Jeremy Blackowicz

Charles E. Schaub, Jr. (BBO #444920)

Jeremy Blackowicz (BBO #650945)

Hinckley, Allen & Snyder, LLP

28 State Street

Boston, MA 02109

(617)345-9000

Dated: January 28, 2005